

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) TSW-32978	
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		First Named Inventor Jean-Claude Constantin	
		Art Unit 2614	Examiner Lun-See Lao
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided. I am the <div style="display: flex; justify-content: space-between;"><div style="width: 45%;"><input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>44682</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</div><div style="width: 50%; border-top: 1px solid black; padding-top: 5px;"><u>/Aaron A. Fishman/</u> Signature <u>Aaron A. Fishman</u> Typed or printed name <u>216-579-1700</u> Telephone number <u>February 23, 2009</u> Date</div></div> <div style="margin-top: 10px;">NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</div>			
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Jean-Claude Constantin
Appln. No. : 09/664,273
Filed : September 18, 2000

Title : METHOD FOR CONTROLLING A TRANSMISSION SYSTEM,
APPLICATION OF THE METHOD, A TRANSMISSION SYSTEM,
A RECEIVER AND A HEARING AID

Conf. No. : 4537
TC/A.U. : 2614

Examiner : Lun-See Lao
Customer No. : 00116
Docket No. : TSW-32978

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Applicants request a pre-appeal brief conference for review of the final rejection in the above-identified application.

REMARKS/ARGUMENTS

Summary of the Invention

According to an aspect of the present invention, a simple mechanism is provided by which an FM receiver attached to a hearing device for receiving the RF signal from a remote wireless microphone can automatically be set to operate on the carrier frequency of the desired RF signal in a multifrequency FM system. In other words, it solves the problem of achieving automatic transmitter-receiver frequency pairing without user intervention. The disclosed solution to this configuration problem is to provide an auxiliary digital data channel (e.g. *control channel* 110, 111, 112, 113) along side (i.e. concurrent to and separate from) the existing primary communication channel (i.e. *information channel* 120) via which the analog FM signal is being transmitted. It is important to note that the transmission parameters (e.g. the carrier frequency) of the *control channel* would need to be fixed/predefined (i.e. selected at the time when the *transmission system* is initially set up) within a specific *transmission system* (i.e. for a certain group of users), in order to ensure that the configuration data (e.g. the transmission parameters of the *information channel*) transmitted by any device (S1...Sn, 102, 105, 107) chosen to send such configuration data can be received by any device (i.e. *receiver* 1) intended to receive such configuration data independent of the

changeable/configurable (i.e. based on the configuration data received during operation of the *transmission system*) transmission parameters used for the *information channel*.

Claim Rejections

For the following reasons, claims 21 and 31 were improperly rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,721,783 to Anderson (hereinafter “Anderson”). The rejection of claims 21 and 31 can be found on pages 5 to 7 of the final Office action dated August 21, 2008 (hereinafter “the Office action”). Further support for the rejection was provided in the Advisory action dated February 2, 2009 (hereinafter “the Advisory action”).

In the Office action, the Examiner cites Anderson for teaching and/or rendering obvious all of the limitations of claims 21 and 31. By contrast to the system of the presently claimed invention, which transmits a plurality of audio signals to multiple hearing devices, Anderson relates to a hearing aid system in which bi-directional wireless transmissions occur between components of an individual user’s hearing aid system. Even when this hearing aid system is used in a multi-user environment, Anderson does not contemplate a single transmitting means that transmits a plurality of audio signals to a plurality of hearing devices. As described in more detail below, several of the limitations of claims 21 and 31 are completely absent from the teachings of the prior art as cited by the Examiner.

FIRST: Claims 21 and 31 require a means for transmitting a *plurality* of audio signals to a plurality of hearing devices. The Examiner correctly cites Fig. 2 as disclosing a hearing device. Fig. 2 is a block diagram of a two-piece hearing aid, consisting of an earpiece (22) and a remote processor unit (RPU) (23). Further, the Examiner cites Fig. 9 as disclosing a means for transmitting a *plurality* of audio signals to the hearing device. This interpretation of Fig. 9 is incorrect. Fig. 9 is a block diagram of the RPU, which is merely a component of the hearing aid shown in Fig. 2 of Anderson. Fig. 9 does not show a means for transmitting a *plurality* of audio signals. The examiner may have been misled by the fact that three antennas (900, 960, 970) are illustrated. The purpose of these three antennas (900, 960, 970) is not to transmit multiple signals but rather, as explained in col. 8, lines 53-67, to provide various antenna orientations, allowing the digital signal processor (DSP) to automatically select the antenna that yields the best link reliability.

Further, in the Advisory action the Examiner states, with reference to col. 8, line 53 - col. 9, line 35, that “Anderson teaches a means for transmitting a plurality of audio signals to a plurality of hearing devices in that the three antennas 900, 960, 970 (fig. 9) transmit a plurality of audio signals to a plurality of hearing devices (cell phones) at different frequencies.” This is incorrect. Nowhere in Anderson is it

stated that all three antennas are used for transmitting a plurality of signals simultaneously, nor that each antenna transmits at a different frequency. Furthermore, the arrangement according to Fig. 9 cannot concurrently produce three different RF signals at three different frequencies nor could it provide such three different RF signals to the individual antennas. As mentioned above, the three antenna configuration depicted in Fig. 9 enables the use of diversity switching (in order to improve reception quality by selecting the antenna with the strongest signal), which makes it clear that the RF circuitry is connected to only a single antenna at any time.

Thus, the Examiner has clearly erred in stating that Anderson teaches means for transmitting a plurality of audio signals to the hearing devices, and the rejection should be withdrawn.

SECOND: Claims 21 and 31 further require a means for *remotely generating and wirelessly transmitting* configuration parameters to the hearing devices and each hearing device further comprising means for receiving the configuration parameters. The Examiner cites the DSP (948) in Fig. 9 as the means for *remotely generating and wirelessly transmitting* the configuration parameters. The Examiner then cites the very same DSP (948) as the means in each hearing aid for receiving the configuration parameters (that were remotely generated and wirelessly transmitted). It is clearly improper to characterize the DSP (948) both as means for “remotely generating and wirelessly transmitting configuration parameters” and as means for “receiving the configuration parameters” from itself. Such an application of Anderson’s teachings to claims 21 and 31 would be inconsistent with any reasonable interpretation of the meaning of the limitations “*remotely generating*” and “*wirelessly transmitting*.” That is, even if the DSP (948) could somehow be interpreted as receiving configuration parameters that are also generated by the DSP (948), the generation of the configuration parameters is clearly not done “remotely” and they are clearly not being transmitted “wirelessly” as required by the claim.

Thus, the Examiner has clearly erred in stating that Anderson teaches means for remotely generating and wirelessly transmitting configuration parameters, and the rejection should be withdrawn.

THIRD: Claims 21 and 31 further require that each hearing device comprises means for tuning the means for receiving of at least one of the plurality of audio signals to an audio signal according to the configuration parameters. The Examiner cites three RF switches (962, 904, 902) in Fig. 9 of Anderson. These RF switches are used to select the antenna that yields the best link reliability as briefly described above (see col. 8, lines 53-67 of Anderson). The RF switches have nothing to do with tuning a receiving means to an audio signal, as in claims 21 and 31.

Further, although the DSP controls the RPU transceiver in order to switch between different modes of operation (e.g. transmit or receive) Anderson in fact teaches using “operating frequencies ... chosen ... in advance of operation” (col. 6, lines 35-41), i.e. using predefined carrier frequencies. Accordingly, Anderson clearly teaches away from tuning a receiving means according to *received* configuration parameters, as required by claims 21 and 31, since its receiving means would be pre-tuned.

Thus, the Examiner has clearly erred in stating that Anderson teaches means for tuning the means for receiving of at least one of the plurality of audio signals to an audio signal according to the configuration parameters, and the rejection should be withdrawn.

Conclusion

For at least the above-described reasons, it is respectfully submitted that claims 21 and 31 and their respective dependent claims were improperly rejected and notice to that effect is respectfully requested.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. TSW-32978.

Respectfully submitted,
PEARNE & GORDON, LLP

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February 23, 2009

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